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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,188	02/03/2001	Kelly L. Zimmerman		1487

7590 11/20/2003
Kelly L. Zimmerman
210 Snow Camp Dr.
Appex, NC 27502

EXAMINER

NGUYEN, CUONG H

ART UNIT PAPER NUMBER

3625

DATE MAILED: 11/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/776,188

Applicant(s)

ZIMMERMAN ET AL.

Examiner

CUONG H. NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 18-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). 3.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Status of the claims

1. Claims 1-33 are pending; claims 1-17 are elected by the inventor (Scott P. Zimmerman) on 11/10/2003 for examination.

Priority

2. This application is a CIP of prior Application No. 09/455,145, filed 12/06/1999, and claims the benefit of U.S. Provisional Application # 60/182,624, filed 2/15/2000.

Election/Restrictions

3. On 11/10/2003 at about 2pm., Mr. Scott Zimmerman's election without traverse of Group I: claims 1-17 in Paper No. 3 is acknowledged.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4-11, 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Arjomand (US Pat. 5,884,202).

A. As to claim 11: Arjomand teaches a system of communicating a diagnostic message from a vehicle, the system comprising:

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- detecting the diagnostic message (see **Arjomand**, Fig.1, ref. 16, and 1:5-30);
 - requesting to initiate a wireless communication in response to the diagnostic message (see **Arjomand**, Fig.1, ref. 16, 3:22-46; and Fig.8, ref. 14); and
 - initiating the wireless communication, the wireless communication initiated by electronic equipment installed in the vehicle (see **Arjomand**, the abstract, Fig.3, and Fig.8, ref. 50).
- Therefore, Arjomand teaches all claimed limitations.
- B. As to claim 1: It comprises similar limitations as claim 11; therefore, similar rationales and reference set forth are applied for a 35 USC 102(b) rejection.
- C. As to claim 14: Arjomand teaches a method of communicating a diagnostic message from a vehicle, further comprising communicating with an occupant of the vehicle to schedule an appointment for service (see **Arjomand**, the abstract, Fig.6, ref. 12, and 1:5-30, 1:30-37). In summary, Arjomand teaches that communication step before bringing a vehicle for services.
- D. As to claims 5, 16: These claims comprise similar limitations as claim 14; therefore, similar rationales and reference set forth are applied for 35 USC 102(b) rejections.

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E. As to claim 15: Arjomand teaches a method of communicating a diagnostic message from a vehicle (see **Arjomand**, the abstract, and Fig.6).

Arjomand also teaches about initiating/commanding a wireless communication representing a diagnostic message from an electrical management system (see **Arjomand**, the abstract, Fig.8, ref. 16, and 1:5-30, 1:30-37). In another word, Arjomand teaches that claimed communication step using a user interface module (ref.12) and a VOM (ref.16).

F. As to claim 4: It comprises similar limitations as claim 15; therefore, similar rationale and reference set forth are applied for a 35 USC 102(b) rejection.

G. As to claim 17: Arjomand teaches a method of communicating a diagnostic message from a vehicle, wherein initiating a wireless communication comprises commanding a device to transmit a wireless communication through a user interface module, and a main control module to i.e., "control and obtain data by wireless communication", "executes diagnostic application programs and displays information to the user" (see **Arjomand**, the abstract, Figs.6, 8, and 1:5-37).

H. As to claims 6-10: These claims comprise similar limitations as claim 17; therefore, similar rationales and references set forth are applied for 35 USC 103(a) rejections.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this

Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arjomand (US Pat. 5,884,202) as applied to claim 1 above, and further in view of Razavi et al. (US Pat. 6,362,720).

Arjomand teaches a method of communicating a diagnostic message from a vehicle (see **Arjomand**, the abstract, and Fig.6).

Arjomand does not disclose that initiating a wireless communication representing the vehicle's location.

However, Razavi et al. disclose that information for wireless communication include a vehicle's location (See **Razavi et al.**, the abstract).

It would have been obvious to one of ordinary skill in the art to combine Arjomand with Razavi et al. in adding information about a vehicle's location in a communication message because artisan recognized that this extra information is clearly necessary in certain case (e.g., for towing a disable vehicle).

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arjomand (US Pat. 5,884,202) as applied to claim 11 above, in view of the Official Notice.

Arjomand teaches a method of communicating a diagnostic message from a vehicle (see **Arjomand**, the abstract, and Fig.6).

Arjomand does not disclose that a condition for requesting if an occupant of the vehicle would like to initiate a wireless communication.

However, the Official Notice is taken here that a condition for requesting if an occupant of the vehicle would like to initiate a communication is merely an option that give the vehicle user a choice to select a "Y" or a "N" option (e.g., if a cell-phone received a voice-mail message, it would give an audible sound to acknowledge a user to initiate an action of listening to that voice-mail or not; the act of initiating is performed analogously to what claimed).

It would have been obvious with one of ordinary skill in the art at the time of invention to implement the above Official Notice in Arjomand's patent because having an option (by adding a Y/N condition in a controlled software) in initiating to a wireless communication device, for instance, initiating to listen or not by pushing a button on a cell-phone is old and well-known.

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8. Claims 3, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arjomand (US Pat. 5,884,202) as applied to claim 11 above, in view of Phillips et al. (US Pat. 6,351,221).

A. As to claim 13: Arjomand teaches a method of communicating a diagnostic message from a vehicle.

Arjomand does not disclose about notifying that a diagnostic message has been communicated.

However, Phillips et al. teach about that limitation (see **Phillips** et al., 1:28-55).

It would have been obvious with one of ordinary skill in the art to combine Arjomand and Phillips et al., because they are in the same field of endeavor, and a motivation of Phillips et al. about notifying a communication is already established would ensure that a diagnostic message is being transmitted and is received successfully.

B. As to claim 3: It comprises similar limitations as claim 13; therefore, similar rationale and reference set forth are applied for a 35 USC 103(a) rejection.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 703-305-4553. The examiner can normally be reached on 7 am - 330 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VINCENT A. MILLIN can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Cuong H. Nguyen

CHN
CUONG H. NGUYEN
Primary Examiner
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